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Intelligence Reforms in Brazil: Contemporary Challenges and the Legacy of the Past

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Introduction

Brazil has recently developed an extensive intelligence system composed of at least thirteen different organizations. The most important factors determining the main characteristics of this system were on the one hand the noxious stigma associated with intelligence organizations during the military dictatorship of 1964-85, and on the other hand the benign view of the outside world held by Brazilian decisionmakers and the general public. The development of the system was slow and drawn out due to these two factors and exacerbated by political weakness and fecklessness in the executive branch between 1985 and 1995, and the slow emergence of interest by members of the legislative branch in the issue of intelligence. The system is the creation of the executive and the legislature with great emphasis on legality and transparency. The resultant system is a crucial element of democratic consolidation both in terms of motivation and roles. In light of this background, however, there is real concern as to the effectiveness of the system due to the way it is structured and staffed. The concern with effectiveness is new, and is due to rampant violence by organized crime in the biggest cities of Rio de Janeiro and Sao Paulo, and the upcoming Pan American Games to be held in Rio de Janeiro in July of 2007.

The Intelligence Services

Key Intelligence and Security Services

According to Decree Law No 4,376 of September 13, 2002, implementing Law No. 9,883 of December 7, 1999, which created the Brazilian Intelligence System (Sistema Brasileiro de Inteligencia, SISBIN), the SISBIN is composed of thirteen organizations spread over ten different ministries and three separate elements of the Presidency. Of these thirteen the most important are the following: Brazilian Intelligence Agency (Agencia Brasileira de Inteligencia, ABIN), which is the central organ of SISBIN; the Coordinating Office for Intelligence of the Federal Police (Coordenacao de Inteligencia do Departamento de Policia Federal, PF) of the Ministry of Justice; the Department for Strategic Intelligence of the Ministry of Defense (Departamento de Inteligencia Estrategica of the Ministerio da Defesa, MOD) as well as the intelligence sectors of the three services and the General Staff of the Armed Forces; and, the Secretariat for Institutional Security (Gabinete de Seguranca Institucional, GSI) of the Presidency, which, according to the decree law is the "coordinating organ for federal intelligence activities." Today, following some seven years of development, the Brazilian intelligence system appears comprehensive and robust, with an

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extensive legal basis and multiple structures. The legal basis of the intelligence system has been thoroughly described by Marco Cepik, and it can be found in the Appendix to this paper. To understand the contemporary challenges confronting the Brazilian intelligence system, and to be able to begin to analyze its effectiveness, requires that we look to the legacy of the past.

Background

Legacy of the Past

In 1964 the democratically elected government was overthrown in a military coup, and between then and 1985 the country was governed by a series of military presidents. While the level of repression was less than other Southern Cone dictatorships, it was still very serious, especially between 1968 and 1974, and the intelligence and security services were central to this repression. In my earlier work on the Church and Politics in Brazil I gave much attention to the role of the Doctrine of National Security in legitimating, at least in their own minds, the role of the armed forces in extirpating the Communist and other subversive forces from the society. Central to this crusade was the National Information Service (Servico Nacional de Informacoes, SNI). As Alfred Stepan demonstrates, the SNI, created by military decree less than three months after the coup, was granted expansive functions and prerogatives, which further expanded as the dictatorship took on new offensives against subversives, real and imagined. The SNI was the military regime's main tool for control and repression. As Stepan states: "General Golbery do Couto e Silva, the chief author of the decree and the first direction of the SNI, later lamented that he had created a 'monster'. It is obvious, however, that regardless of its later expansion, the SNI was, from its inception, a powerful body."[\[1\]](#)

Stepan, and others, have demonstrated that the SNI became militarized, indeed the fourth military service. Stepan also demonstrates how the SNI expanded its functions, in the context of an increasingly repressive dictatorship, thus without civilian oversight, and came to monopolize more functions than any other major intelligence system in the world. Two of the military presidents in this period—General Garrastazu Medici and General Joao Figueiredo—had been heads of the SNI. If the SNI was not enough, the bureaucratic politics of the Brazilian dictatorship spawned several other intelligence organizations, resulting in an intelligence system that constituted a state within a state.[\[2\]](#) This system, with its high degree of autonomy and extensive power, opposed the slow transition from dictatorship to democracy, under military supervision, between 1974 and 1985. In sum, in the terms used in the study of state security, it was a "political police," becoming an "independent security state" for the period of 1968-74.[\[3\]](#) The legacy of this very strong, autonomous, and repressive intelligence apparatus is fundamental to an understanding of the reforms after the transition in 1985.

Also necessary for an understanding of the current system is awareness that the transition to democracy was initiated, and supervised, by the military regime itself. Beginning with President Ernesto Geisel in 1974, it was not completed (in terms of a civilian taking office as president) until 1985. The military successfully slowed the pace of change and reform, and retained extensive prerogatives. Even after 1985, due to bad luck, the civilian that ultimately became president, Jose Sarney, 1985-90, was a holdover from the military regime itself. Due to him and the very complicated political environment in the late 1980s, the Constitution of 1988, the constitution of the "New Republic," is very long, inconsistent, and to some degree was initially unworkable. Yet, it does provide a legal basis for a democratic Brazil, one in which there is a huge emphasis on legality or at least legalism. It must be emphasized, however, that the Constitution does not deal explicitly with intelligence.

Due to even more bad luck, at least for Brazil, there was no president with democratic legitimacy until the election of Fernando Henrique Cardoso in 1994. The significance of the lag in democratically elected civilians assuming power is that fundamental reforms in the security area

and defense arenas, including intelligence were put off. It was not until 1999 that the first ever ministry of defense was created, and a civilian named as the minister. (Even then little progress was made due to allegations of crime and corruption of the first incumbent, who resigned in a few months.) And, it was not until 1999 that ABIN was created. The overall significance of the political transition and the first decade of the civilian governments, is that in the security and defense areas the governments, at least until President Cardoso took office, did not have the coherence (which is difficult to achieve in the political party and federal system emerging from the 1988 Constitution) and legitimacy (based on free and fair election) to begin to establish a definitive structure in such areas as the armed forces and intelligence. In sum, it was 14 years after the supposed transition to civilian government that the basic structures pertaining to an intelligence system began to be established, and laws and decrees continued until very recently to be issued to implement different elements of the emerging system.

If, during the military regime of 1964-85, the government saw real or imagined enemies everywhere, and used the SNI and other security services to identify and repress them, until very recently the perception of the democratic government was totally different. This is vividly captured in an interview with Minister of Defense Jose Viegas Filho in March of 2002. In response to a question, "Is Brazil Immune to Terrorism?" he stated: "No one can say that they are immune to terrorism. But if you were to draw up a list of countries that are vulnerable to this problem, Brazil would certainly be in one of the lowest rankings. *Brazil has no enemies*. There is not one country in the world that hates us or is prejudiced against us."^[4]

The Pollyanna self-image of Brazil, without internal or external enemies and oriented towards domestic problems largely associated with socio-economic underdevelopment, has been the key theme of all governments since the transition to democracy in 1985. This perception is nicely expressed in a magisterial article by Celso Lafer, professor of Law at the University of Sao Paulo, and Foreign Minister during part of the Fernando Henrique Cardoso governments. After an historical review of Brazil's internal development and international relations, Lafer states that "in the development of national space and the alleviation of poverty, the real challenge for Brazil lies in the negotiations of the financial agenda and the agenda for international trade."^[5] At no point in the article does Lafer discuss security or defense issues. His chapter is all about the development of "national space," economic development, and national identity. According to Lafer, the foreign policy of Brazil is characterized by "...a concentration on the value of diplomacy and law in international intercourse as appropriate ways to deal with conflict, foster cooperation, and reduce the impetus of power politics."^[6] It should be noted that in this special number of *Daedalus* devoted to Brazil, there are fourteen chapters and not a single section of any one of them is even remotely related to contemporary security and defense issues or the armed forces.

Another point of reference to demonstrate the lack of emphasis on national security and defense, one need only review the table of contents of the official summary of the accomplishments of the Presidency of Fernando Henrique Cardoso. In *Brazil 1994-2002: The Era of the Real*^[7] the topic of Defense, with 6 pages, is just above Tourism, with 4 pages. The Environment receives 14 pages, Foreign Policy 21, and Development and Foreign Trade, 30. If anything, the government of President Luiz Ignacio Lula da Silva, 2003-present, pays even less attention to national security and defense. Indeed, since he took office the Ministry of Defense, created in 1999, has languished.

In sum, the Brazilian governments since the end of the military regime in 1985, hold a very benign view of the world in which national goals are to be achieved through diplomacy and trade. There is a huge stigma attached to the SNI, and thus to intelligence in general since the SNI was the core organization doing what was considered "intelligence" at that time. And, there is an equally great emphasis on law and legalism which members of the Congress, and particularly from political parties on the Left, have utilized in developing the legal basis for the current intelligence system.

Intelligence Reforms

The Reforms

Undoubtedly the most critical and basic reform in the Brazilian intelligence system was the dissolution of the SNI in 1990 by President Collor de Mello. Unfortunately even if Fernando Collor de Melo had not been impeached in 1992, it is doubtful that he would have been able to implement a new system to replace the one left over from the military regime. At that time the SNI as still involved in dirty tricks, the Congress was just beginning to assert its power, and the Executive lacked a plan for intelligence reform. In any case despite some sporadic attention by the executive and legislative branches, it was not until December 7, 1999 that the law No. 9,883 was passed by Congress creating ABIN. And, it was not until September 13, 2002 that decree No. 4,376 implemented SESBIN. The story of the random efforts to reform intelligence between 1990 and late 1999, is complex and illustrative of the situation of political disarray and lack of attention to security and defense in Brazil at that time, but is not central to my focus in this paper.^[8]

As noted above, there is a very strong emphasis in democratic Brazil on legality, and the legislature has played a central role in the creation of the current Brazilian intelligence system. The series of initiatives by Congress is due to several reasons. First, the executive, at least until after 1995, did not want to deal with security and defense. They were more than preoccupied with the economy and foreign debt. Second, there was a group of Leftist members of Congress who felt very strongly about the need to consolidate Brazilian democracy, probably most particularly in intelligence given the uses to which the system was put during the dictatorship. And third, the Congress has become very much aware of its exclusive powers in providing oversight over the Executive ("fiscalizacao"). It should be no surprise, then, that there are several legal documents on which the System is based. These laws extend beyond ABIN to different components of the emerging system. In addition to law # 9,883 creating ABIN, and decree No. 4,376 decreeing into existence SISBIN, structuring the overall System, there are also the following laws (it should be noted that there are several different categories of laws in Brazil but to review them would take far too long.): Decree Law No. 3,448 of 5 May 2000 creating a Subsystem of Public Security Intelligence; Decree law No. 3,505 of 13 July 2000 instituting a Information Security Policy in the Federal Administration; Decree Law No. 3,695 of 21 December 2000 with further elaboration on Public Security Intelligence; and a policy directive from the Minister instituting the Defense Intelligence System in the Ministry of Defense. (See the [Appendix](#) for a complete listing.)

In addition to establishing the overall and detailed legal framework for the system, the Congress attempted to deal with the issue of oversight. In my interviews in Brasilia in 1999 and 2000, the issue of oversight was being discussed, but there was little progress in establishing the mechanisms. In November of 2002, in an international conference on "Intelligence in Brazil: Contributions for Sovereignty and Democracy" oversight was a very prominent issue. On November 21, 2000 the Congress created the Joint Commission for External Control of Intelligence Activities (CCAI). By November 2005, and then again in December of 2006, (when I again did interviews in Brasilia), the legal basis for the Joint Committee had still not been established. While the committee was still in the process of formulation, its first chairman was Deputy Aldo Rebelo, who later became the Government Leader of the lower House. There is some question as to how effective this oversight committee can be since still in December, 2006, it had only one member of staff and the legal regulation for the workings of the committee had still not been passed. It should be noted that the Senate approves the nomination of the Director of ABIN.

With regard to oversight within the Executive, there is both a Secretariat for Internal Control in the Presidency (Secretaria de Controle Interno da Presidencia da Republica) which oversees the budget in general of the Presidency, and the Court for National Accounts (Tribunal de Contas da Uniao, TCU) which also specifically looks to ABIN. In terms of the framework proposed in our

book, then, we can say that the levels of democratic civilian control are as follows:[9] Executive—High; Legislative—Low; Judicial—Medium; Internal—Medium; External—Medium.

A Hybrid System

In light of the above, it should be no surprise that the intelligence system is a hybrid. In interviews and in published materials the data indicate that the models on which the system is based is a combination of the United States and Canadian systems, with emphasis on the latter. Like the United States, Brazil has, at least formally, a very comprehensive system composed of thirteen different organizations. Of particular relevance here, in addition to ABIN, are the Federal Police and the intelligence services of the three armed forces. The coordination of the system, therefore, is supposed to take place in the GSI. Given his role in creating the System and managing it for four years, the Minister-Chief, General Alberto Cardoso was able to fuse intelligence from both civilian and military organizations. The Canadian model is logical considering the Brazilians are trying to distance themselves from the SNI, their benign view of the world, and the crucial role played by Leftist deputies in the basic laws. Consequently, there is more emphasis on transparency than on effectiveness. Based on interviews in December of 2005 and 2006, under the continuing Minister-Chief, General Armando Felix, the GSI continued to be the main location for fusing intelligence.

A Public Relations Campaign to Promote the Legitimacy of Intelligence in a Democracy

The emphasis throughout, from the mid 1990s until the present, has been on distancing the emerging intelligence system from the stigma of the SNI and other militarized intelligence organizations during the dictatorship. Since Brazil faces no obvious external threats, the Executive, even if it wanted to, was unable to make an argument to preserve the old system. It should also be repeated that the democratic transition was the initiative of the military, over the opposition of the sector of the military in the SNI and other intelligence organizations. In addition, while the focus all along has been on replacing the SNI, and ABIN is that replacement, there has always been the Federal Police and the intelligence services of the armed forces. Consequently, the reforms have been met with passivity on the part of intelligence officers and other in the Executive, and by total apathy by the general public. It is for this reason that Deputy Aldo Rebelo held the very high profile conference in Brasilia on 6-7 November 2002 with the subtitle of "Contributions for Sovereignty and Democracy" with a tremendous amount of publicity. In late November of 2005 and early December of 2006, the ABIN itself hosted international seminars with some 500 people in attendance and ample media coverage. The goal in all cases has been to publicize the importance of intelligence in a democracy.

Challenges in Democratic Consolidation and Effectiveness

Democratic Control, Yes; but Concern with Effectiveness

In terms of democratic consolidation, the reforms of the intelligence system are highly successful. The system is composed of several different, and competing, intelligence organizations, there is a robust legal framework within which it must operate, there is an emerging structure of executive and some congressional oversight, and it is largely transparent. In terms of effectiveness, however, there is real concern.[10] In the relatively recent past there was evidence less of the abuse of power of the intelligence system than its inability to predict such key events as a truckers strike or the strikes by police in many cities in the late 1990s. And, the intelligence systems did not appear to be effective in the waves of violence promoted by organized crime in Rio de Janeiro and Sao Paulo throughout 2006 and early 2007.

Implications for Effectiveness Arising from the Manner of Democratic Consolidation

The reform of the intelligence system was a key element, along with the creation of the MOD, in Brazil's democratic consolidation. The elimination of the SNI and other intelligence organizations of the military dictatorship were extremely important elements in the consolidation process. The creation of the SISBIN, and the legal framework within which it is situated, is also very important for consolidation. The oversight mechanism is currently in a very slow process of construction. The main challenges in consolidation currently, as with the MOD, are to finish the institutionalization of the institutions and to interest and educate sufficient civilians who will be able to assume control in both intelligence and in national security and defense. Currently there are only a handful of members of Congress who are interested and engaged. The same applies to potential staff for the Executive, including ABIN and the MOD. The same also applies to civil society to include the media, think tanks, and NGOs. Since 2002, and the coming into power of the first Presidency of Lula, there has been a serious loss of momentum in the MOD. Despite serious efforts between 2000 and 2002 to develop the institution and expertise of the staff, there has been only regression during the past four years. The situation has not been so serious with ABIN and SISBIN in general, but there are continuing impediments to increased effectiveness, largely due to the legacy of the past and the process of democratic consolidation.

Limitations on effectiveness in intelligence

There are at least four limitations or impediments to effectiveness due to the legacy of the past and the process of democratic consolidation. First, ABIN is not allowed to intercept communications or open mail. While the Federal Police area allowed to intercept communications, provided a judge grants the request, this information may or may not be passed on to ABIN.[\[11\]](#) While this is not specifically stated, the overall emphasis in ABIN is on open source information rather than traditional "spying". This leads to the second impediment that is entry into ABIN via a public competition rather than selective recruitment. Involved in this point is the fact that employees of ABIN are regulated by the same public service rules as all other public servants. Thirdly, and following from the previous point, once into the public service, employees of ABIN can sign up for other competitions and, if successful, move on to other, better paying and more prestigious positions. This does little for stability of the institution and the competence of its analytical capability. Fourth, there is no provision in law to punish a person who releases or leaks classified information. Only the standard criminal laws apply which relate to theft. As there are no specific laws regarding classified information, and as a normal court process would be unacceptable in the context of releasing secret information, there seems to be in fact no penalty in releasing classified information. There are, in short, very serious impediments to effective intelligence in Brazil as ABIN is supposed to be the center of the overall system.

Perception of Threats

"Acceptable Threats"

Unfortunately for Brazil, despite the popular belief that Brazil indeed has no enemies, which is shared by the overwhelming majority of politicians, there are in fact challenges or threats which might just require an effective intelligence system. Government officials such as Congressman Aldo Rebelo, as head of the Joint Oversight Committee, have emphasized all along the threats arising from globalization concerning science, technology, and natural resources, especially in the Amazon. ABIN also utilizes this justification for increasing effectiveness.[\[12\]](#) What is new, however, is an increasing concern by some in the GSI and ABIN, regarding international terrorism. Until very recently, all official spokesmen, including the previous Minister/Chief of the GSI, General Alberto Cardoso, stated that there was no terrorist threat to Brazil.[\[13\]](#) The title of the international seminar in November 2005, sponsored by ABIN, was "International Seminar on Intelligence and Contemporary Challenges" and there was no specific attention to the possible threat of international terrorism.

A New Perception of Terrorism as a Threat?

The title of the seminar in early December 2006 was "Second International Seminar on State Intelligence, the Media, and Terrorism". What has changed, for the first time to focus on terrorism, can best be explained by three points. First, there is awareness that international terrorists may attack a foreign target, such as the U.S. or Israeli embassy, in another country as was the case in Kenya, Tanzania, and Argentina. Second, based on the experience in Madrid on March 11, 2004, where criminal elements morphed into terrorists and linked up with Al Qaeda, there is concern that the same could happen in Brazil. Third, and the main event focusing their attention, is the imminent hosting by Brazil of the Pan American Games in Rio de Janeiro in July of 2007. Such a global and public event is perceived to present an unparalleled opportunity for international terrorists to show their global reach. Everyone is keenly aware that the crime situation in Rio de Janeiro is precarious, and even with "rounding up the usual suspects," if this were even possible given corruption, may not be enough to provide the protection necessary if international terrorists decided to attack. There is much riding on the success of the games, for hosting them successfully would put Brazil into competition for hosting other events such as the Soccer World Cup and the Olympics.

Conclusions

Brazil has developed an intelligence system that appears to be comprehensive and robust. There are, however, some concerns about how effective it is in that the central organizing agency, ABIN, is itself weak and very much in a state of flux. During the past year there has been an increasing awareness of the need for a more effective intelligence system. There is now a great deal of attention to prepare for the Pan American Games in Rio de Janeiro in July of 2007, and to minimize the chance of a terrorist attack. There is, consequently, much consideration being directed to how to strengthen, to make more effective, the intelligence system.

Sources of Information

Comments on sources of information are relevant in the area of intelligence studies for two main reasons:

1. First, there is really no academic discipline of intelligence studies, and the analytical publications are just now beginning to emerge.
2. Second, intelligence is normally secret, and the aphorism of "those who know don't say and those who say don't know" applies.

To have insights into a country's intelligence system, therefore, requires some kind of special effort and privileged access. In the case of Brazil I can claim to have both.

For a bibliography on the general topic of intelligence and politics see: Greta E. Marlatt, *Intelligence and Policy-Making: A Bibliography* (Monterey: Dudley Knox Library, Naval Postgraduate School, 2005), 79 pages. Available at:
<http://www.ccc.nps.navy.mil/si/2007/May/intellall2007.pdf>

There are a few published sources on the Brazilian intelligence system. For the background on the SNI, ending with the middle of the Sarney administration, 1985-90, see Alfred Stepan's *Rethinking Military Politics: Brazil and the Southern Cone* (Princeton: Princeton University Press, 1988). It is very useful as chapter two is an analysis of the role of the SNI in the military regime and its resistance to the democratic transition. Scott Tollefson's chapter five, "National Security" in Rex Hudson, ed., *Brazil: A Country Study* (Washington, D.C.: Library of Congress, 1998), 337-411, includes information on intelligence on pages 358-62. Luis Bittencourt has analyzed the role

of the Congress in the earliest phase of intelligence reforms in his *O poder legislativo e os serviços secretos no Brasil (1964-1990)* (Brasilia: Faculdades Integradas da Católica da Brasília, 1998). Priscilla Carlos Brandao Antunes in *SNI & ABIN: Uma Leitura da Atuação dos Serviços Secretos Brasileiros ao Longo do Século XX* (Rio de Janeiro: Editora FGV, 2002) has done a good job in describing and analyzing the evolution of the Brazilian intelligence from 1990 right up to and including the creation of ABIN in 1999. She and Marco Cepik have written an excellent survey article of Brazilian intelligence published in the *International Journal of Intelligence and Counterintelligence*, XVI, No. 3 (July-September, 2003). "The New Brazilian Intelligence Law: An Institutional Assessment." Marco Cepik's Ph.D. dissertation is "Servicos de Inteligencia: Agilidade e Transparencia como Dilemas de Institucionalizacao" (doctoral dissertation at IUPERJ, Rio de Janeiro, 2001). Marco Cepik wrote a chapter for our book, "Structural Change and Democratic Control of Intelligence in Brazil," in Thomas Bruneau and Steven Boraz, eds., *Reforming Intelligence: Obstacles to Democratic Control and Effectiveness* (Austin: University of Texas Press, 2007). ABIN publishes a *Relatório Anual* and began *Revista Brasileira de Inteligência* in December 2005.

In addition to these published sources I have relied on my own experiences and interviews in Brazil. Beginning in 1967, my research in Brazil was on the Catholic Church as a political institution. In the field research on this topic, with periodic visit to Brazil from the late 1960s through the mid-1980s, I had contact with a great many Catholic and Protestant activists—priests, nuns, ministers, and lay people—who, due to their involvement in social and political change movement, had or would suffer at the hands of the military regime's intelligence system. During the mid-to-late 1980s I focused my research on the efforts to consolidate Brazilian democracy through the drafting of a new constitution. During that research I became aware of the emphasis in the new regime on ensuring democracy through passing laws, on legalism. This emphasis is clear in the area of intelligence reforms.

In 1999 and 2000, while trying to interest Brazilian officials in CCMR programs, I made two trips to Brazil during which time I met with officials dealing with intelligence reform. In early August 1999 I met with Joao Ricardo C. de Souza who was the main congressional staffer drafting the legislation for the ABIN. At that time I also met with Senator Romeu Tuma who was the relator of the law creating ABIN.

In late June 2000 I met again with the Joao Ricardo C. de Souza who was by then working on the SISBIN law. In November of 2001, CCMR delivered a one-week seminar in Brasilia on civil-military relations under the sponsorship of the MOD. One of the topics covered in the seminar was Democratic Control of Intelligence. We also ran a simulation on this topic. From the inputs by the Brazilian participants to the seminar, and the results of the simulation, I gained some new insights into the state of intelligence reform. Probably most important in the development of this paper was my participation in a watershed conference in Brasilia on November 6-7, 2002 on the topic of "Intelligence Activities in Brazil: Contributions for Sovereignty and Democracy" sponsored by the Brazilian Congress and held in the facilities of the House. It was specifically sponsored by the Joint Commission for the Control of Intelligence Activities (CCAI) under the chairmanship of Deputy Aldo Rebelo. This conference had presentations by the heads of all of the relevant intelligence organizations. It was attended by more than 300 officials and officers at any one time, was televised, and otherwise widely covered in the media. There was also a good deal of debate which allowed for clarification of a number of issues. At that time, and again in late November when CCMR held another seminar for the MOD, I met with friends working for General Alberto Cardoso in the Secretariat for Institutional Security. Later, during my participation in two ABIN-sponsored international seminars in November 2005 and December 2006, I learned a great deal from the presentations. I also made interviews with staff at both the GSI and ABIN during these visits.

The views expressed here are those of the author(s) and do not necessarily represent the views of NPS, the Department of Defense, or the U.S. Government.

References

1. Alfred Stepan, *Rethinking Military Politics: Brazil and the Southern Cone* (Princeton: Princeton University Press, 1988), 16.
2. *Ibid.*, 28.
3. See Thomas Bruneau and Kenneth Dombroski, "Reforming Intelligence: The Challenge of Control in New Democracies," in Thomas Bruneau and Scott Tollefson, eds. *Who Guards the Guardians and How: Democratic Civil-Military Relations* (Austin: University of Texas Press, 2006), 154-55.
4. *Correio Brasiliense*, March 9, 2002. Emphasis added by author.
5. Celso Lafter, "Brazilian International Identity and Foreign Policy: Past, Present, and Future," *Daedalus*, Spring, 2000, 231.
6. *Ibid.*, 215.
7. Brasilia: Presidencia da Republica, 2002. It is also worth noting that at least in the English version of his memoir, Fernando Henrique Cardoso calls attention to diplomacy, cooperation, understanding, and the like, and makes not a single reference, at least that I could identify, to any "hard" security or defense issue. See Fernando Henrique Cardos, with Brian Winter, *The Accidental President of Brazil: A Memoir* (NY: Public Affairs, 2006).
8. For the most complete discussion of this story see Priscilla Carlos Brandao Antunes, *SNI & ABIN: Uma Leitura da Atuacao dos Servicos Secretos Brasileiros ao Longo do Seculo XX* (Rio de Janeiro: FGV, 2002).
9. Thomas Bruneau and Steven Boraz, eds., *Reforming Intelligence: Obstacles to Democratic Control and Effectiveness* (Austin: University of Texas Press, 2007), 332.
10. We specifically address the issue of effectiveness, in addition to democratic civilian control, in "Introduction: Intelligence Reform: Balancing Democracy and Effectiveness," in Thomas Bruneau and Steven Boraz, *Reforming Intelligence: Obstacles to Democratic Control and Effectiveness* (Austin: University of Texas Press, 2007), 1-26.
11. The regulating law is No 9296 of July 24, 1996.
12. See for example Claudia Assaf Bastos Rebello, "Necessidade de Inteligencia do Estado brasileiro," in *Revista Brasileira de Inteligencia* II , No. 2 (April 2006), 43- 44.
13. The author heard his make this assertion at the international seminar on "Intelligence Activity in Brazil: Contributions for Sovereignty and Democracy," in Brasilia, November 6-7, 2002.
14. Marco Cepik, "Political Regime and Intelligence in Brazil: structural change and democratic control," draft chapter 25 July 2006. Subsequently revised and published in Bruneau and Boraz, 2007.

Appendix of Laws and Decrees[14]

Brazilian federal intelligence and related laws[*]

Type of law	Number	Enact Year	Main Focus	Comment
			Freedom of expression and right to information	State security related exceptions
Constitution	Art. 5	1988		
Constitution	Art. 142	1988	Armed Forces roles and missions	External defense, uphold the Constitution and, under request of the constitutional government to law and order in the internal realm
Ordinary Law	7.170	1983	National Security Law	Still in place / passed under military rule. Congress examines now a Bill (PL 6.764/2002) dealing with crimes against the state and democracy
Ordinary Law	8.028	1990	Terminate the National Information Service (SNI)	SNI was the powerful intelligence and security service of the Brazilian military regime
Ordinary Law	8.159	1991	Archives National Policy	Main regulation regarding access to government files
Executive Decree	4.553	2002	Information security	Security classifications and clearances
Ordinary Law	9.034	1995	Use of operational means (i.e. technical surveillance) to prevent and repress crime	Some articles changed by Law 10.217/2001
Ordinary Law	9.296	1996	Judicial authorization in advance for telephone intercepts	ABIN is not allowed to either ask for such an authorization or to engage in tapping operations
Ordinary Law	9.883	1999	To establish the Brazilian Intelligence Agency (ABIN) and the Brazilian Intelligence System (SISBIN)	Missions are defined in fairly general terms based upon a broad definition of intelligence and counter-intelligence
Complementary Law	97	1999	To establish the Defense Ministry (MD) and the General Defense Staff (EMD)	MD structure and resources were detailed by Decree 4.735/2003 and Policy Directive MD 1.037/2003
Executive Decree	3.695	2000	To establish the Public Security Intelligence	SENASP / MJ as coordinator; Decree 3.348/2002 first defined

			Sub-System (SISP)	ABIN as SISP central agency, but the Ministry of the Justice was able to regain the coordinator role for the SISP
Executive Decree	4.376	2002	To specify SISBIN's organization and membership	Define members of the SISBIN and its Consulting Council; complemented by decree 4.872/2003
Policy Directive	295	2002	To establish the Defense Intelligence System (SINDE)	Strategic Intelligence Department (DIE) of the MoD as the central organ
Ministry of Defense				
Ordinary Law	10.862	2004	ABIN's Special Career Plan	Defines the Information Analyst career, from entry until retirement, through training, progression and ethics requirements
National Congress' Internal Resolution	08	2000	Joint Commission for the Intelligence Activities Control (CCAI)	CCAI was established in 2000; until today the Brazilian Congress has not approved the Commission's internal rules

* Legal and administrative examples of instruments utilized by the Brazilian Congress to regulate different aspects of the intelligence and security field. As one should expect, Constitutional articles are hard to change (requiring a majority of 3/5 in both houses of the Congress). Complementary Laws are supposed to further regulate and make more specific some Constitutional articles. This type of law in Brazil requires an absolute majority in both houses of the National Congress. Inside the Brazilian legal hierarchy, Ordinary Laws are just laws, they are situated below the Constitution and the Complementary Laws, and they require just a simple majority (half plus one of the Representatives attending the Congress session) to be passed and enacted. Executive decrees are situated even below in legal terms, they are not laws, but they set policies and rules to the government agencies, much like the Executive Orders in United States. Policy Directives are administrative measures issued by specific Ministers and Cabinet members to regulate the government agencies under their responsibility. Finally, there are Legislative decrees and Congress internal resolutions dealing with specific problems of internal organization and policy. See www.interlegis.gov.br.